

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Case No. 3:22-cr-00016-MMD-CSD-1

Plaintiff,

ORDER

v.

JAMES MATTORANO PINEDA,

Defendant.

I. SUMMARY

James Mattorano Pineda is charged with felon in possession of a firearm and possession of an unregistered firearm based on a gun that Nevada Highway Patrol (“NHP”) troopers discovered during an inventory search. (ECF No. 9.) The gun was found in the front passenger floorboard of a car where Pineda was a passenger. Before the Court is Pineda’s motion to suppress the gun and incriminating statements from the stop and search. (ECF No. 31 (“Motion”).¹ The Court held an evidentiary hearing on the Motion on April 24, 2023 (“Hearing”), and considers the arguments raised and exhibits admitted therein. (ECF Nos. 54; 55.) Because Trooper Koester had reasonable suspicion to stop the vehicle and the gun was the “fruit” of a constitutional traffic stop, the Court will decline to suppress the gun. Because Trooper Koester’s actions did not convert the stop into an arrest, and even if there was an illegal arrest, the incriminating statements would still be admissible under the attenuation doctrine, the Court will also decline to suppress the incriminating statements. The Court will therefore deny the Motion (ECF No. 31).

¹The government filed a response to the Motion (ECF No. 39), and Pineda filed a reply (ECF No. 45). The Court also granted leave for the filing of supplemental authorities. (ECF Nos. 56; 57; 59.)

II. FACTUAL FINDINGS

The Court relies on evidence attached to the parties' briefs, as well as the testimony presented at the Hearing, to make its findings of fact.

According to the Reno Police Department ("RPD") CAD Report and RPD Officer Derek Jones's own testimony,² Officer Jones observed an early 2000s Jeep Cherokee that was parked at Motel 6 on North Wells Avenue in Reno in the early morning of February 4, 2022. (ECF Nos. 45 at 2; 45-1 at 2; 54.) The Jeep had a Nebraska license plate. (ECF No. 54.) Officer Jones thought the vehicle might have been stolen because he previously found many stolen vehicles in that Motel 6 parking lot and because the license plate check came back for a Honda, not a Jeep. (*Id.*) However, Officer Jones told dispatch that he was investigating for a "10-99" stolen vehicle, rather than a possible stolen vehicle. (ECF Nos. 45-1 at 2; 54.)

Officer Jones surveilled the vehicle for approximately two hours before he was joined by another RPD officer. (ECF No. 54.) When the Jeep eventually started moving and got onto the freeway at a high speed, approximately three RPD cars began following the Jeep. (ECF Nos. 45 at 2; 45-1 at 2; 54.) Officer Jones does not recall activating his lights and sirens. (ECF No. 54.) The RPD CAD report described the driver as a Hispanic female wearing a red-hooded sweatshirt, with a dog in the back. (ECF No. 45-1 at 2.) RPD eventually stopped following the vehicle pursuant to department policy. (ECF Nos. 45-1 at 2; 54.)

Shortly afterwards, Trooper Koester of the NHP received an "attempt to locate" dispatch while on patrol in Sparks that RPD was recently in pursuit of a vehicle that fled

²During the Hearing, the government objected to Jones's testimony and the introduction of the RPD CAD Report on the basis of relevance. (ECF No. 54.) The Court overruled the objection. (*Id.*) The CAD Report and Jones's testimony are relevant because they clarify the accuracy of the dispatch report to Trooper Koester. See Fed. R. Evid. 401 ("Evidence is relevant if: (a) it has a tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action").

1 from a traffic stop.³ (ECF Nos. 39-3 at 2; 54.) Specifically, dispatch reported that a stolen
2 vehicle, with a fictitious Oregon license plate number 77B775, fled from RPD after RPD
3 tried to stop the car. (ECF No. 39-3 at 2.) Dispatch described the car as a maroon, early
4 2000s Jeep Cherokee driven by a Hispanic female wearing a red hooded sweater, with a
5 dog in the back. (ECF Nos. 31 at 2; 39 at 2-3; 39-3 at 2.) Soon after receiving the dispatch,
6 Trooper Koester spotted a red Jeep with the same license plate number and a driver
7 matching the description and began following the vehicle. (ECF Nos. 31 at 2; 39 at 3; 39-
8 2 at 10; 54.) However, he noticed that the car had a Nebraska, not Oregon, license plate
9 bearing the number from the dispatch report. (ECF Nos. 39 at 3; 39-2 at 10.) Trooper
10 Koester ran the license plate number, and the check returned as a “no match” or an error.
11 (ECF Nos. 39-3 at 2; 54.)

12 The Jeep then abruptly pulled into a Mor Furniture parking lot.⁴ (ECF Nos. 31 at 2;
13 41-3 at 9:55:48; 54.)⁵ Trooper Koester turned on his front-facing lights, briefly activated
14 his sirens, and exited his patrol car. (ECF Nos. 39 at 3; 41-3 at 9:55:56.) Trooper Koester
15 testified that he activated his lights and sirens to announce his presence and that the
16 traffic stop was happening. (ECF No. 54.) Within seconds of the Jeep stopping, Pineda,
17 the male passenger, exited the passenger side of the car and started walking towards the
18 rear of the Jeep. (ECF Nos. 41-3 at 9:56:04; 54.) Trooper Koester drew his service pistol,
19 ordered Pineda to stop where he was, show him his hands, show him his waistband, and
20

21 ³The Court notes that there is a brief lag in audio at the beginning of Trooper
22 Koester’s dashcam. (ECF No. 41-3.) Trooper Koester testified that there was a 30 second
buffer after the video was activated. (ECF No. 54.)

23 ⁴Trooper Koester testified that he did not initiate a traffic stop before then because
24 he had information the Jeep was stolen and had fled from RPD’s pursuit, so he was
25 waiting for back-up to arrive. But when the Jeep abruptly pulled into the Mor Furniture
parking lot, he had to initiate the stop knowing that other troopers were approaching. (ECF
No. 54.)

26 ⁵The Court uses the time stamp at the upper right corner of the body camera. (ECF
27 No. 41-3.) Trooper Koester’s bodycam footage was submitted as Government’s Manually
28 Filed Exhibit 3. (*Id.*)

1 spin around. (ECF Nos. 41-3 at 9:56:27-9:57:07; 54.) Pineda complied with Trooper
2 Koester's orders. (ECF No. 54.)

3 Trooper Koester then informed dispatch that he was doing a felony stop, told
4 dispatch that the car was a red Jeep with a Nebraska plate, and asked dispatch to run
5 the plates again. (ECF Nos. 41-3 at 9:57:19-9:58:00; 54.) Trooper Koester asked Pineda
6 if he had any other passengers in the car, and Pineda replied that he just had his dog.
7 (ECF No. 41-3 at 9:59:18.) Pineda and the driver of the Jeep, Yolanda Flores-Escobedo,
8 were held at gun point by Trooper Koester, the sole officer on the scene, until back up
9 Troopers Clow and Stuke arrived to assist. (ECF Nos. 39-2 at 10; 54.) Trooper Koester
10 testified that in a high-risk felony traffic stop, NHP protocol requires all occupants of the
11 vehicle to be taken out at gun point, and for the troopers to clear the vehicle. (ECF No.
12 54.)

13 When back up arrived, Trooper Koester ordered Pineda to reverse to Trooper
14 Chow and get on his knees, and Trooper Clow placed Pineda in handcuffs, frisked him
15 for weapons, and put Pineda in the back of Trooper Koester's patrol car. (ECF Nos. 39-2
16 at 10; 54.) Flores-Escobedo was also handcuffed and placed in the back of Trooper
17 Clow's patrol car. (*Id.*) Trooper Koester observed a large Pit bull in the car; the Pit bull's
18 head was sticking out of the fully rolled down windows. (ECF Nos. 41-3 at 10:02:00; 54.)
19 Pineda called out to troopers to make sure that his dog does not jump out of the window
20 because his dog is "kind of dumb." (ECF No. 41-7 at 5:58.)

21 Pineda assured Trooper Koester that the dog was friendly, but the dog was freaked
22 out by uniforms because the mailman tried to attack him. (ECF No. 41-3 at 10:01:13.)
23 Trooper Koester asked for animal control to come to the scene because there was a
24 "hostile Pit bull" in the car, and they were trying to clear the car. (*Id.* at 10:01:18-10:01:39.)
25 Pineda told Trooper Koester that his dog was not hostile, and that Trooper Koester could
26 go up to the window of the car if he said "hey boy" to the dog. (*Id.* at 10:01:29.) Trooper
27 Koester followed Pineda's advice, approached the car, and verified that no one else was
28 inside the car. (*Id.* at 10:02:36-10:03:57.) He also received information from dispatch that

1 the Jeep's plates belonged to a 2001 Honda Accord, confirming that they were fictitious.
2 (ECF Nos. 31-1 at 10; 54.)

3 Trooper Stuke tried to safely get the VIN number of the car under the windshield
4 to ascertain the vehicle's registration status and verify whether the vehicle was stolen.
5 (ECF No. 41-6 at 10:04:44.) However, when he approached the vehicle, the dog growled
6 at him, so the troopers delayed accessing the vehicle and getting the VIN number until
7 the dog was secured by animal control. (ECF Nos. 41-3 at 10:05:08; 41-6 at 10:04:44.)
8 Pineda offered to get the VIN number for the troopers, but Trooper Koester instructed him
9 to sit tight. (ECF No. 41-3 at 10:04:50.) Dispatch informs Trooper Koester that RPD is
10 now saying that the only charge they have is the fictitious plates. (*Id.* at 10:04:34.) Trooper
11 Koester tells another officer that although he was originally told the Jeep was stolen, "I
12 don't know if that's the case, fictitious plates on it for sure, but can't get the VIN just yet
13 because the dog is growling." (*Id.* at 10:04:59.) Trooper Koester testified that he did not
14 terminate Pineda's detention at that point and continued investigating because he was
15 receiving conflicting information and wanted to confirm whether the vehicle was stolen.
16 (ECF No. 54.) Pineda tells Trooper Koester that, although his dog is super nice, the guns
17 freak him out. (ECF No. 41-3 at 10:05:34.)

18 While waiting for animal control to arrive, Trooper Koester asked for Pineda's
19 name, date of birth, and social security number, which Pineda immediately provided, and
20 Pineda also volunteered that he was on parole in Nevada and gave Trooper Koester the
21 name of his parole officer. (*Id.* at 10:05:49-10:06:26.) Trooper Koester testified that it is
22 often standard practice to ask passengers for their identification during a traffic stop,
23 particularly when there was suspicion of other crimes being committed. (ECF No. 54.)
24 Pineda told Trooper Koester that he did not want his dog to get shot and Trooper Koester
25 reassured Pineda that the dog was okay, and they are waiting for animal control to arrive
26 to get the car's VIN. (ECF No. 41-3 at 10:06:30-10:06:37.) Trooper Koester asked
27 dispatch to check if Pineda had any warrants. (ECF Nos. 41-3 at 10:07:03; 54.) Dispatch
28 informed him that there was a DONS Priority 5 automatic hold and parole warrant on

1 Pineda. (ECF Nos. 31-1 at 11; 41-3 at 10:07:57.) Trooper Koester asked dispatch to
2 contact Pineda's parole officer, C. Congdon. (ECF Nos. 41-3 at 10:09:34; 54.)

3 Trooper Stuke then told Trooper Koester that he saw three RPD cars "all over,"
4 with their sirens on, pursuing the Jeep. (ECF No. 41-3 at 10:11:25-10:11:38, 10:14:17-
5 10:14:44.) Dispatch advised Trooper Koester that Pineda's parole officer is off duty;
6 Trooper Koester informed Pineda about the active warrant and asked Pineda if he knew
7 he had a warrant. (*Id.* at 10:12:21-10:13:09.) Pineda appears surprised at this information,
8 and Trooper Koester informs Pineda that "they want you" and he is trying to get a hold of
9 Pineda's parole officer to find out the reason why. (*Id.* at 10:13:14-10:13:25.) Trooper
10 Koester testified that, in his mind, Pineda was arrested at that point. (ECF No. 54.) Pineda
11 expresses concerns, again, that his dog might get accidentally shot if the dog runs out of
12 the car. (ECF No. 41-3 at 10:13:52.)

13 When animal control finally arrived, over 20 minutes after the Jeep was pulled over,
14 the animal control officer determined that the safest way to secure the Pit bull was for
15 Pineda or Flores-Escobedo to personally remove the dog from the car. (*Id.* at 10:17:48-
16 10:18:30.) While the troopers decided whether to temporarily release Pineda to remove
17 his dog, an officer asked Pineda whether he had any weapons in the car. (*Id.* at 10:21:45.)
18 Pineda responded no, but there might be a knife in his black backpack. (*Id.* at 10:21:50.)
19 The troopers temporarily released Pineda from his restraints, Pineda removed the dog
20 from the Jeep, and the troopers placed him back in handcuffs. (*Id.* at 10:22:40-10:24:16.)

21 Once the dog was removed, the troopers were finally able to access the vehicle
22 and run the Jeep's VIN number. (*Id.* at 10:25:45.) The VIN number confirmed that the
23 vehicle was not stolen but had fictitious plates and was registered to a third party,
24 Christina Clements. (ECF Nos. 31-1 at 12; 41-3 at 10:35:11; 54.) The troopers decided
25 to tow the Jeep because the car was registered to a third party, the plates affixed to the
26 car were fictitious, and the driver of the vehicle could not provide the troopers with any
27 documentation that she was in lawful possession of the vehicle. (ECF Nos. 39-9 at 2; 54.)
28

1 The troopers then conducted an inventory search and completed an inventory
2 sheet. (ECF Nos. 31 at 4-5; 39 at 7; 39-9 at 2.) During the inventory search, Trooper
3 Stuke found a gun bag in the front passenger floorboard where Pineda was sitting. (ECF
4 Nos. 31 at 5; 39 at 7; 41-6 at 10:29:53.) Trooper Stuke brought the black bag to Pineda
5 and asked him if this was the same black backpack that Pineda referenced before; Pineda
6 replied no, his black backpack was in the backseat. (ECF Nos. 41-3 at 10:32:22-10:32:32;
7 41-6 at 10:32:26.) Acting Sergeant Thompson also found a machete in the car. (ECF No.
8 41-3 at 10:33:12.) Trooper Stuke subsequently opened the gun bag and discovered a
9 loaded sawed-off shotgun inside. (ECF Nos. 41-3 at 10:39:53; 41-6 at 10:39:28-
10 10:39:58.) Trooper Koester unloaded the shotgun and placed it in the back of his patrol
11 car. (ECF No. 43 at 10:40:59-10:42:31.)

12 Trooper Koester returned to Pineda and informed him that he was under arrest for
13 the priority 5 probation warrant. (*Id.* at 10:43:23.) He gave Pineda his *Miranda* warnings
14 and Pineda indicated that he understood his rights. (*Id.* at 10:43:39.) Trooper Koester
15 proceeded to question Pineda about the shotgun. (*Id.* at 10:43:53.) While Pineda initially
16 said, “no comment,” he immediately denied that the gun was Flores-Escobedo’s when
17 Trooper Koester asked if the gun was hers. (ECF Nos. 41-3 at 10:43:52; 54.) Pineda then
18 admitted that the gun belonged to him, that he modified the gun, and that he just got the
19 gun. (ECF Nos. 41-3 at 10:44:17; 54.) Trooper Koester informed Pineda that he was now
20 under arrest for the parole warrant and for possession of the shotgun. (ECF No. 41-3 at
21 10:44:47-10:44:51.) Flores-Escobedo was released with a citation for driving with fictitious
22 plates. (ECF Nos. 41-3 at 10:45:30-10:53:06; 54.)

23 Trooper Koester listed Pineda’s charges in the booking sheet, but later crossed
24 out “arrest for violation of parole” and “possession of a dangerous weapon” at the request
25 of the clerk, who told him to add “PNP hold” in the left corner of the booking sheet instead.
26 (ECF No. 54.) Trooper Koester later spoke to the daughter of the Jeep’s registered owner,
27 Tatianna Leilani Gutierrez, who informed him that Flores-Escobedo was her best friend,
28

1 that she did not realize Flores-Escobedo and Pineda had the Jeep, and that they did not
2 have permission to have the vehicle. (ECF Nos. 31-1 at 12; 54.)

3 **III. DISCUSSION**

4 Pineda argues that the discovery of the gun and his incriminating statements were
5 both results of an unlawful stop and search, in violation of his Fourth Amendment rights,
6 and should be suppressed. (ECF No. 31 at 11.) Pineda presents three distinct arguments
7 for suppression of the evidence: (1) his seizure was an arrest from the inception because
8 of the level of force used, (2) his arrest was not supported by probable cause because
9 the vehicle was not stolen and Trooper Koester acted on inaccurate information, and (3)
10 there was no basis for the inventory search and tow. (*Id.* at 6-11.)

11 The Court declines to suppress the gun because the traffic stop was constitutional,
12 and the gun was the “fruit” of the valid traffic stop. The Court also declines to suppress
13 Pineda’s incriminating statements because the traffic stop was not unlawfully prolonged
14 and law enforcement’s actions did not convert the investigatory stop and detention into
15 an arrest. Moreover, even if Pineda’s seizure was an illegal arrest, his incriminating
16 statements would still be admissible under the attenuation doctrine. Therefore, the Court
17 will deny Pineda’s Motion.

18 **A. Pineda’s Standing**

19 As a preliminary matter, the government argues that Pineda lacks standing to
20 directly challenge the search of the Jeep. (ECF No. 39 at 8.) The Court agrees because,
21 as a passenger of the vehicle, Pineda does not have a possessory interest in the car. See
22 *U.S. v. Pulliam*, 405 F.3d 782, 786 (9th Cir. 2005) (explaining that a passenger with no
23 possessory interest in the car “has no reasonable expectation of privacy in a car that
24 would permit [his] Fourth Amendment challenge to a search of the car”) (citations and
25 quotation marks omitted). However, Pineda does have standing “to contest the legality of
26 his own detention” and can show that the discovered contraband is “in some sense the
27 product of his unlawful detention.” *Id.* at 787 (citations and quotation marks omitted).
28 Pineda also has standing to challenge the initial stop, the fruit of the unlawful stop, the

1 license plate check that prompted the stop, law enforcement's request for his
2 identification, and law enforcement's subsequent check of his driver's license or ID card.
3 See *U.S. v. Twilley*, 222 F.3d 1092, 1095 (9th Cir. 2000) (citations omitted); *U.S. v. Diaz-*
4 *Castaneda*, 494 F.3d 1146, 1150 (9th Cir. 2007) (citations omitted).

5 **B. Suppression of the Gun**

6 The Court will first address suppression of the gun that the troopers found in the
7 front passenger floorboard of the Jeep. (ECF Nos. 31 at 5; 39 at 7; 41-6 at 10:29:53.)
8 Defense counsel conceded during the Hearing that the gun was the product of the
9 fictitious plates. (ECF No. 54.) Pineda also maintained in his reply that law enforcement's
10 decision to tow the Jeep was specifically the result of the fictitious plates, "not [his] arrest
11 for being priority 5." (ECF No. 45 at 8.) But Pineda contends that law enforcement had no
12 basis for towing the Jeep and conducting the inventory search, which led to the discovery
13 of the gun. (ECF No. 31 at 9-10.) The Court disagrees and finds that the gun was the
14 "fruit" of a valid stop under the Fourth Amendment and should not be suppressed.

15 "Traffic stops are seizures under the Fourth Amendment, so officers must have at
16 least a reasonable suspicion of criminal misconduct before detaining a driver." *U.S. v.*
17 *Rojas-Millan*, 234 F.3d 464, 468 (9th Cir. 2000) (citation omitted). Reasonable suspicion
18 "is formed by specific, articulable facts which, together with objective and reasonable
19 inferences, form the basis for suspecting that the particular person detained is engaged
20 in criminal activity." *Id.* at 468-69 (citation omitted). An officer may "rely on his training and
21 experience in drawing inferences from the facts he observes," but "those inferences must
22 also be grounded in objective facts and be capable of rational explanation." *Id.* at 469.
23 "The requirement of *particularized* suspicion encompasses two elements." *U.S. v.*
24 *Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (citation omitted). "First, the
25 assessment must be based upon the totality of the circumstances." *Id.* (citation omitted).
26 "Second, that assessment must arouse a reasonable suspicion that the *particular person*
27 *being stopped* has committed or is about to commit a crime." *Id.* (citations omitted).

1 The Court finds that Trooper Koester had reasonable suspicion for the traffic stop
 2 and the stop was constitutional. Trooper Koester pulled over the Jeep because dispatch
 3 initially reported that the Jeep was stolen, had fled from RPD officers during a stop, and
 4 had fictitious license plates. (ECF Nos. 39-3 at 2; 39-3 at 2; 54.) However, this information
 5 was partially inaccurate because it was later revealed that the Jeep was not stolen and
 6 had not fled from RPD. (ECF Nos. 39 at 7; 41-3 at 10:04:34, 10:35:11; 54.) But a mistaken
 7 fact does not automatically nullify the basis for reasonable suspicion.⁶ A mistaken fact,
 8 when held “reasonably and in good faith, can provide reasonable suspicion for a traffic
 9 stop.” *Twilley*, 222 F.3d at 1096 n.1 (citations omitted); see also *Liberal v. Estrada*, 632
 10 F.3d 1064, 1077 (9th Cir. 2011) (“Even if an officer makes a mistake of fact, that mistake
 11 will not render a stop illegal, if the objective facts known to the officer gave rise to a
 12 reasonable suspicion that criminal activity was afoot”) (citation omitted). Here, RPD
 13 Officer Jones initially conveyed to dispatch that he was investigating a “stolen” vehicle,
 14 dispatch then conveyed this information to Trooper Koester, who relied on the
 15 dispatcher’s report in good faith, as there were no facts to suggest otherwise at the time
 16 of the stop.⁷ (ECF Nos. 39-3 at 2; 45-2 at 2; 54.) Hence, although some of the information

18 ⁶The government explicitly raised the mistake of fact issue in their supplement.
 19 (ECF No. 56.) Pineda was granted leave to respond and subsequently submitted his own
 supplement on this issue. (ECF Nos. 58; 59.)

20 ⁷Pineda argued, for the first time in his reply, that the collective knowledge doctrine
 21 applies and RPD’s knowledge that it was only investigating the car for fictitious plates
 22 should be imputed onto NHP. (ECF No. 45 at 4-5.) At the Hearing, the Court allowed the
 23 parties to supplement their arguments on the collective knowledge issue, and for Pineda
 24 to provide case law where this doctrine was used defensively. (ECF No. 54.) In the
 25 supplement, Pineda cited to a 1976 Ninth Circuit case, *U.S. v. Robinson*, where the Ninth
 26 Circuit held that “founded suspicion to stop defendant’s vehicle could not be based *solely*
 27 upon the receipt by the stopping officer of a radio dispatch to stop the described vehicle
 28 without any proof of the factual foundation for the relayed message.” 536 F.2d 1298, 1299
 (9th Cir. 1976) (emphasis added). However, Trooper Koester’s basis for reasonable
 suspicion was not solely derived from the dispatcher’s report—the stop was also partially
 based on his personal observations and his suspicions that the car had fictitious plates—
 an indicator that it could be stolen. (ECF No. 54.) For instance, Trooper Koester ran the
 Jeep’s license plates before the stop and it came back as “error” or “no match.” (*Id.*)

1 Trooper Koester relied on was inaccurate, they will nonetheless provide reasonable
2 suspicion for the felony stop. See *Twilley*, 222 F.3d at 1096 n.1; *Liberal*, 632 F.3d at 1077.

3 Moreover, the Jeep *did* have fictitious plates and Trooper Koester has sufficient
4 reasonable suspicion to stop the Jeep on fictitious plates *alone*. (ECF No. 31-1 at 10.)
5 Trooper Koester testified that he suspected the Jeep of having fictitious plates because
6 he ran the license plate number *before* the stop, and the check returned as a “no match”
7 or error. (ECF Nos. 39-3 at 2; 54.) The Ninth Circuit and lower courts have found that an
8 officer’s suspicion that a vehicle’s plates are fictitious serves as reasonable suspicion for
9 a traffic stop. See *Rojas-Millan*, 234 F.3d at 469 (finding that the trooper’s “suspicion that
10 [the defendant’s] plates might be fictitious became a reasonable basis for a traffic stop
11 once he ran two checks on the number, both of which came up ‘no match’”); *U.S. v.*
12 *Adame-Farias*, Case No. 98-10434, 1999 WL 451144, at *1 (9th Cir. 1999) (finding the
13 traffic stop constitutional because the trooper “had a reasonable suspicion that the
14 automobile was not properly registered” after noticing “an irregularity on the license plate,”
15 and after dispatch ran the license number twice and found no match); *Belcher-Bey v. City*
16 *of Las Vegas*, Case Nos. 2:12-cv-01829-JAD-CWH, 2:12-cv-01909-JAD-CWH, 2015 WL
17 1344790, at *3 (D. Nev. Mar. 20, 2015) (finding that the officer “plainly had reasonable
18 suspicion that Belcher-Bey was violating Nevada’s traffic laws” because “the vehicle she
19 was driving on public roads bore fictitious plates”).

20 Because defense counsel conceded that the gun was a “fruit” or product of the
21 fictitious plates and the Court finds that Trooper Koester had reasonable suspicion to stop
22 the vehicle on fictitious plates, any evidence derived from the lawful stop would be
23 admissible.⁸ (ECF No. 54.) The troopers subsequently decided to tow the Jeep and
24

25 _____
26 Because the cases are factually distinct, the Court rejects Pineda’s argument and
declines to apply the collective knowledge doctrine.

27 ⁸Notably, defense counsel also admitted during the Hearing that there was likely
28 reasonable suspicion for the stop. (ECF No. 54.)

1 conduct an inventory search,⁹ in accordance with Nevada Department of Public Safety
2 (“DPS”) Policy, because two license plate checks confirmed the plates belonged to a
3 different car model¹⁰ and a VIN number check confirmed that the Jeep was registered to
4 a third party—so the car could not be released to Pineda or the driver. (ECF Nos. 41-3 at
5 10:35:11; 54.) See DPS Policy 503.4.2(a) (“[v]ehicles which come under the control of the
6 Department may be impounded at the involved officer’s discretion” when “[t]he vehicle is
7 not properly registered”); 503.5.4 (“[p]rior to towing, all property in a stored or impounded
8 vehicle shall be inventoried and listed in the inventory section of the Vehicle Impound
9 Report. This includes the trunk and any compartments or containers, even if closed . . .
10 These inventory procedures are for the purpose of protecting an owner’s property while
11 in Department custody, to provide for the safety of officers and to protect the Department
12 against fraudulent claims of lost, stolen or damaged property”). The Court therefore
13 rejects Pineda’s argument that there was no basis for conducting the inventory search.
14 (ECF No. 31 at 9.) The government has adequately shown that the tow and inventory
15 search were warranted under the circumstances.

16 To the extent Pineda argues that the gun was a product or “fruit” of his illegal
17 detention, the Court rejects this argument. (*Id.* at 6-9.) See *Pulliam*, 405 F.3d at 787.
18 Discovery of the gun was wholly independent and separate from Pineda’s detention; the
19 record and Trooper Koester’s testimony clearly show that the gun’s discovery would have
20 occurred regardless of Pineda’s detention. See *id.* at 787, 790 (to demonstrate that the
21 evidence found in a car was the fruit of his own unlawful detention, the passenger must
22

23 ⁹Pineda does not dispute the characterization of the search as an inventory search.
24 (ECF Nos. 31; 45.)

25 ¹⁰Trooper Koester testified that he conducted two license plate checks on the Jeep.
26 He ran a first check before the stop, when he was still following the vehicle, and the result
27 came back as “no match.” (ECF Nos. 39-3 at 2; 54.) He then conducted a second license
28 plate check a few minutes into the stop and was informed by dispatch that the Jeep’s
plates belonged to a 2001 Honda Accord. (ECF Nos. 31-1 at 10; 41-3 at 9:57:19-9:58:00;
54.)

show that “but for the detention, the evidence in the car would not have been found”). (ECF Nos. 31-1 at 11-12; 39-9 at 2; 54.) The car had fictitious plates, was registered to a third party, and could not be released to Pineda; the driver of the vehicle could not provide the troopers with any documentation that she was in lawful possession of the vehicle. (ECF Nos. 31-1 at 10; 39-9 at 2; 54.) Because the vehicle would be coming under the control of the Department, the troopers had to inventory the property inside the vehicle to protect the vehicle’s owner and to protect the Department from liability, during which time they found the gun. See DPS Policy 503.4.2(a); 503.5.4. Pineda did not make any statements during his detention that prompted the officers to search the car—the gun was found *before* his interrogation.¹¹ (ECF Nos. 41-3 at 10:43:39; 41-6 at 10:29:53.) See *Pulliam*, 405 F.3d at 787. Hence, the gun was not a “fruit” of Pineda’s unlawful detention because Pineda failed to show that but for his detention, the gun would not have been found. See *id.*

To the extent Pineda argues that the gun was the product of an unlawful inventory search, the Court rejects this argument as well. (ECF No. 31 at 9-10.) Defense counsel does not argue, nor does the record suggest, that the inventory search was pretextual or a ruse to discover incriminating evidence.¹² (ECF Nos. 31; 45.) See *U.S. v. Johnson*, 889 F.3d 1120, 1125-26 (9th Cir. 2018) (“The purpose of the [inventory] search must be non-investigative; it must be conducted on the basis of something *other* than suspicion of evidence of criminal activity”) (citation and quotation marks omitted); *U.S. v. Garay*, 938

¹¹In *Pulliam*, the U.S. Supreme Court presented several ways a passenger can show that the evidence found in a car was the fruit of his own unlawful detention. See 405 F.3d at 787. For instance, the passenger could “show that had he requested to leave the scene of the traffic stop, he would have been able to do so in [the] car.” *Id.* (citation omitted). “Or, he could show that statements he made or evidence found on his person during his detention prompted the officers to search the car or enabled them to find evidence in it that otherwise would have remained hidden.” *Id.* (citation omitted). “In each of these nonexclusive examples, it can be argued that but for the detention, the evidence in the car would not have been found.” *Id.*

¹²The defendant has the burden of demonstrating that the inventory search was unreasonably pretextual. See *Johnson*, 889 F.3d at 1126.

1 F.3d 1108, 1111 (9th Cir. 2019) (“Inventory searches are consistent with the Fourth
2 Amendment only if they are not used as an excuse to rummage for evidence”) (citation
3 omitted). As discussed above, law enforcement had valid reasons to inventory the
4 property inside the Jeep and the troopers complied with DPS policies in conducting the
5 inventory search. (ECF Nos. 31-1 at 10; 39-9 at 2; 54.) See DPS Policy 503.4.2(a);
6 503.5.4. Moreover, as a passenger of the car, Pineda does not have standing to directly
7 challenge the inventory search. See *Pulliam*, 405 F.3d at 786.

8 In sum, because Trooper Koester had reasonable suspicion to stop the vehicle,
9 because the gun was the product of a valid traffic stop, because discovery of the gun was
10 wholly separate and independent from Pineda’s detention, and because Pineda does not
11 have standing to directly challenge the inventory search, the Court denies the Motion as
12 it relates to suppression of the gun.

13 **C. Suppression of the Incriminating Statements**

14 The Court will next address suppression of Pineda’s incriminating statements,
15 where he admitted that the gun was his and that he had modified the firearm. (ECF Nos.
16 41-3 at 10:44:17; 54.) Pineda argues that the aggressive tactics used by the troopers
17 immediately converted Pineda’s seizure into an arrest without probable cause, so the
18 incriminating statements were obtained in violation of the Fourth Amendment. (ECF No.
19 31 at 6-8.) The government counters, in part, that Trooper Koester had reasonable
20 suspicion to conduct an investigatory stop and detention, Trooper Koester’s use of force
21 did not convert the investigatory stop into an arrest, and even if there was an unlawful
22 arrest, the parole warrant broke the chain of causation. (ECF No. 39 at 10-22.) The Court
23 agrees with the government.

24 **1. Intrusive Law Enforcement Tactics**

25 The Court will first evaluate whether the troopers’ use of force immediately
26 converted the stop into an arrest. As explained above, Trooper Koester had reasonable
27 suspicion to make the initial stop, based on his suspicion that the car had fictitious plates
28 and based on his good-faith reliance on dispatch’s report that the vehicle was stolen and

1 had fled from RPD. (ECF Nos. 39-3 at 2; 54.) However, when the Jeep abruptly pulled
2 into the parking lot, Trooper Koester implemented more intrusive tactics, which included
3 activating his lights and sirens, drawing his service pistol and holding Pineda at gun point
4 until backup arrived, telling Pineda to put his hands up and get on his knees, and placing
5 Pineda in handcuffs and in the back of the patrol car. (ECF Nos. 31 at 6-8; 41-3 at 9:56:27-
6 9:57:07; 54.) Although a close call,¹³ the Court finds that Trooper Koester's intrusive
7 tactics were justified under the totality of the circumstances for reasons of personal safety
8 and did not convert the investigatory stop/detention into an arrest.

9 A lawful traffic stop must be limited in scope and "may last no longer than is
10 necessary to effectuate [its] purposes and complete the traffic mission safely." *Taylor*, 60
11 F.4th 1233, 1239 (9th Cir. 2023) (citations and quotation marks omitted). "[A]n officer may
12 address the traffic violation that warranted the stop, make ordinary inquiries incident to
13 the traffic stop, and attend to related safety concerns." *Id.* (citation and quotation marks
14 omitted). When evaluating whether an investigatory stop was converted into an arrest,
15 the Court must consider the totality of the circumstances, including "the aggressiveness
16 of the police methods and how much the [individual's] liberty was restricted[.]" and "the
17 justification for the use of such tactics, i.e., whether the officer had sufficient basis to fear
18 for his safety to warrant the intrusiveness of the action taken." *Washington v. Lambert*, 98
19 F.3d 1181, 1185 (9th Cir. 1996) (citations omitted); *see also U.S. v. Edwards*, 761 F.3d
20 977, 981 (9th Cir. 2014) (citation omitted).

21 The Ninth Circuit has "only allowed the use of especially intrusive means of
22 effecting a stop in special circumstances, such as 1) where the suspect is uncooperative
23 or takes action at the scene that raises a reasonable possibility of danger or flight; 2)
24 where the police have information that the suspect is currently armed; 3) where the stop
25 closely follows a violent crime; and 4) where the police have information that a crime that
26

27 ¹³Even if the stop was converted into an arrest without probable cause, the Court
28 finds that the attenuation doctrine applies, as discussed below, and Pineda's incriminating
statements would still be admissible.

1 may involve violence is about to occur.” *Id.* at 1189 (citation omitted). “The number of
2 police officers present is also highly relevant.” *Green v. City & Cnty. of S.F.*, 751 F.3d
3 1039, 1047 (9th Cir. 2014) (citation omitted). “While these considerations are not
4 exhaustive, they all inform the ultimate inquiry of whether the officers’ conduct was a
5 reasonable response to legitimate safety concerns on the part of the investigating
6 officers.” *Id.* (citation and quotation marks omitted); *see also Washington*, 98 F.3d at 1185
7 (“The relevant inquiry is always one of reasonableness under the circumstances”)
8 (citations omitted).

9 When viewed under the totality of the circumstances, Trooper Koester’s actions
10 did not convert the investigatory stop into an arrest because he feared for his personal
11 safety. *See Washington*, 98 F.3d at 1185 (citations omitted). Although the drawing of guns
12 and handcuffing a defendant increase the seriousness and intrusiveness of a stop, the
13 “use of force during a stop does not convert the stop into an arrest if it occurs under
14 circumstances justifying fears for personal safety.” *See U.S. v. Bautista*, 684 F.2d 1286,
15 1289 (9th Cir. 1982); *U.S. v. Buffington*, 815 F.2d 1292, 1300 (9th Cir. 1987) (citation
16 omitted); *Washington*, 98 F.3d at 1188. While some factors support a finding of an
17 arrest—Pineda was cooperative with troopers, there was no indication Pineda was
18 armed, and his liberty was restricted—the specific circumstances of the case weigh
19 against such a finding. Pineda’s abrupt exit from the vehicle and his movement towards
20 Trooper Koester raised safety concerns,¹⁴ particularly given dispatch’s report that the
21 Jeep was stolen and had fled from RPD during an earlier stop. *See Washington*, 98 F.3d
22

23 ¹⁴At the Hearing, the government argues that Trooper Koester’s intrusive tactics
24 were justified because he feared that Pineda would flee from the scene. (ECF No. 54.)
25 The Court rejects this argument because Trooper Koester explicitly testified that he
26 implemented more intrusive tactics due to safety concerns—not flight. (*Id.*) Moreover,
27 although the bodycam footage appears to show Pineda’s movement towards the rear of
28 the vehicle after exiting the car, it does not show that he tried to flee the scene, and the
Jeep was parked and cabined among other occupied parking spaces. (ECF No. 41-3.)
The government may not change the facts of the case to fit their argument when the
narrative is not supported by the record or law enforcement testimony. (ECF Nos. 41-3;
54.)

1 at 1185, 1188-89 (citation omitted); *see also Edwards*, 761 F.3d at 981 (citation omitted).
2 Trooper Koester was also reasonably complying with NHP protocol for a high-risk felony
3 stop, which required all occupants of the vehicle to be taken out at gun point and required
4 him to clear the vehicle. (ECF No. 54.)

5 Moreover, the ultimate inquiry for a Fourth Amendment challenge is whether the
6 officers' conduct was a *reasonable* response to legitimate safety concerns. *See Green*,
7 751 F.3d at 1047 (citation and quotation marks omitted); *see also Heien v. N. Carolina*,
8 574 U.S. 54, 60 (2014) (“[W]e have repeatedly affirmed, the ultimate touchstone of the
9 Fourth Amendment is reasonableness”) (citation and quotation marks omitted). Trooper
10 Koester's tactics, albeit intrusive, were *reasonable* under the specific circumstances of
11 this case. Trooper Koester testified that he did not initiate a traffic stop until the Jeep
12 turned into the Mor Furniture parking lot because he thought the vehicle was stolen and
13 had information that RPD was recently in pursuit of the vehicle and wanted to wait for
14 back-up. (ECF No. 54.) He was the only officer on the scene and was conducting a stop
15 on a reportedly stolen car with an unknown number of occupants and fictitious plates,
16 which had allegedly fled from RPD officers. (ECF Nos. 39-3 at 2; 41-3 at 9:56:27-9:57:07;
17 54.) *See Green*, 751 F.3d at 1047. Trooper Koester's existing fear for his safety was
18 further exacerbated when the passenger of the “stolen” vehicle abruptly exited the car
19 and appeared to be moving towards him. (ECF Nos. 41-3 at 9:56:04, 10:02:00; 54.)

20 There was also a large Pit bull in the car, with its head hanging out of a fully rolled
21 down window, and Pineda repeatedly warned officers that the dog might jump out or run
22 out of the window. (ECF Nos. 41-7 at 5:58; 41-3 at 9:56:04, 10:01:13, 10:02:00, 10:06:30-
23 10:06:37, 10:13:52.) When viewed under the totality of the circumstances, Trooper
24 Koester's decision to implement more aggressive tactics to secure the scene, clear the
25 vehicle, and protect his personal safety, did not convert the stop into an arrest. *See Green*,
26 751 F.3d at 1047 (citation omitted); *Heien*, 574 U.S. at 60-61 (“To be reasonable is not to
27 be perfect, and so the Fourth Amendment allows for some mistakes on the part of
28

government officials, giving them fair leeway for enforcing the law in the community's protection") (citation and quotation marks omitted).

2. Prolongment of the Stop

Next, the Court is unpersuaded by Pineda's argument that Trooper Koester unreasonably and unlawfully prolonged Pineda's detention, particularly after dispatch informed him that the Jeep may not have been stolen. (ECF Nos. 31 at 8-9; 41-3 at 10:04:34; 54.) The government counters, in part, that the stop and detention were validly prolonged because the troopers could not access the Jeep's VIN number to verify whether the car was stolen. (ECF Nos. 39 at 18; 54.) The Court agrees with the government.

A stop "may last no longer than is necessary to effectuate [its] purposes and complete the traffic mission safely." *Taylor*, 60 F.4th at 1239 (citations and quotation marks omitted). An officer may only prolong a stop if "it was (1) part of the stop's 'mission' or (2) supported by independent reasonable suspicion." *U.S. v. Landeros*, 913 F.3d 862, 867-68 (9th Cir. 2019) (citation omitted); see also *Taylor*, 60 F.4th at 1239 (explaining that a stop "may be extended to conduct an investigation into matters other than the original traffic violation so long as the officers have reasonable suspicion of an independent offense") (citation and quotation marks omitted). When detaining a driver after a traffic stop, "any questioning must relate to the purpose of the stop," and "the detention must be temporary and unintrusive." *Rojas-Millan*, 234 F.3d at 469-70 (citations omitted).

The Court finds that Trooper Koester was permitted to prolong the stop and Pineda's detention, and the prolongment did not convert the stop into an arrest because Trooper Koester was acting within the "mission" of the traffic stop and his actions were necessary to effectuate the purposes of the stop. See *Landeros*, 913 F.3d 867-68 (citation omitted); *Taylor*, 60 F.4th at 1239 (citations and quotation marks omitted). Trooper Koester was investigating whether the Jeep was stolen, whether the car had fled from RPD during a prior stop, and whether the car had fictitious plates. (ECF Nos. 39-2; 39-3; 54.) Dispatch informed Trooper Koester, around nine minutes into the stop, that RPD was now saying

1 the only charge they had was the fictitious plates. (ECF Nos. 41-3 at 10:04:34; 54.)
2 Trooper Koester testified that he did not terminate Pineda's detention at that point
3 because he was receiving conflicting information—first the car was stolen, now it might
4 not be stolen; RPD refused to come to the scene despite Trooper Koester's request; a
5 second license plate check confirmed that the car's plates were fictitious and fictitious
6 plates could be an indicator of a stolen car¹⁵; the troopers could not access the Jeep's
7 VIN due to the growling Pit bull; and Trooper Stuke told Trooper Koester that he saw three
8 RPD cars "all over" pursuing the Jeep, with their sirens on. (ECF Nos. 31-1 at 10; 43-1 at
9 10:04:34-10:04:59, 10:05:08, 10:11:25-10:11:38, 10:14:17-10:14:44; 41-6 at 10:04:44;
10 54.) Given this conflicting information, prolongment of the traffic stop and detention were
11 necessary to verify whether the vehicle was actually stolen.

12 The bodycam footage and audio also support this continuing lack of clarity. (ECF
13 Nos. 41-3 at 10:04:59; 54.) The dispatcher did not explicitly state that the vehicle was not
14 stolen, the dispatcher instead stated that the only charge RPD had was the fictitious
15 plates. (ECF No. 41-3 at 10:04:34.) Trooper Koester also told another officer that although
16 he was originally told the Jeep was stolen, "I *don't know* if that's the case, fictitious plates
17 on it for sure, but can't get the VIN just yet because the dog is growling." (*Id.* at 10:04:59
18 (emphasis added).) Accordingly, it was reasonable for Trooper Koester to continue
19 investigating, as part of the mission of the traffic stop, to determine whether the Jeep was
20 stolen. *See Landeros*, 913 F.3d at 867-68 (citation omitted). Alternatively, the dispatcher's
21 confirmation¹⁶ that the Jeep's license plates belonged to a Honda Accord also serves as
22 independent reasonable suspicion to prolong the stop because, as Trooper Koester

23
24
25 ¹⁵Trooper Koester testified at the Hearing that fictitious plates could be an indicator
that a car is stolen. (ECF No. 54.)

26
27 ¹⁶The Court notes that Trooper Koester appeared to have receive this confirmation
28 about the fictitious license plates before he learned that the vehicle may not have been
stolen. (ECF Nos. 31-1 at 10; 41-3 at 10:04:34.)

1 testisfied, fictitious plates may be an indicator that a vehicle is stolen. (ECF Nos. 31-1 at
2 10; 54.)

3 Finally, in order to properly effectuate the purpose of the stop, the troopers needed
4 to access the Jeep's VIN number to verify registration. See *Taylor*, 60 F.4th at 1239
5 (citations and quotation marks omitted). However, access was hindered and delayed
6 because the Pit bull inside the car growled at Trooper Stuke when he tried to approach
7 the vehicle; for safety reasons,¹⁷ the troopers had to wait until animal control arrived to
8 remove the dog. (ECF Nos. 41-3 at 10:05:08; 41-6 at 10:04:44.) Thus, the troopers'
9 actions were part of their "mission" to investigate whether the vehicle was stolen, the
10 "mission" was prolonged because of the Pit bull inside the car and because Trooper
11 Koester was receiving conflicting information, and the traffic "mission" was not completed
12 until the troopers were finally able to access the VIN and confirm that the car was not
13 stolen. See *Landeros*, 913 F.3d at 867-68 (citation omitted).

14 3. Attenuation

15 The government argues that even if Pineda's seizure was an illegal arrest without
16 probable cause, Trooper Koester's discovery of Pineda's parole warrant constituted an
17 intervening event, which attenuated any Fourth Amendment violations. (ECF No. 39 at
18 20-22.) The Court agrees.

19 "Where evidence is obtained from an unlawful search or seizure, the exclusionary
20 rule renders inadmissible both primary evidence obtained as a direct result of an illegal
21 search or seizure and evidence later discovered and found to be derivative of an illegality,
22 known as fruit of the poisonous tree." *U.S. v. Baker*, 58 F.4th 1109, 1119 (9th Cir. 2023)
23 (citations and quotation marks omitted). An exception to the exclusionary rule is the
24 attenuation doctrine, where evidence "is admissible when the connection between

25 ¹⁷The troopers' precautions appeared to be supported by Pineda's own warnings,
26 where he repeatedly stated that his dog was afraid of uniforms and guns because the
27 mailman tried to attack him; that the dog might jump out or run out of the car because he
28 was "kind of dumb"; and that he was concerned his dog would be accidentally shot. (ECF
Nos. 41-3 at 10:01:13, 10:06:30-10:06:37, 10:13:52; 41-7 at 5:58.)

1 unconstitutional police conduct and the evidence is remote or has been interrupted by
 2 some intervening circumstance, so that the interest protected by the constitutional
 3 guarantee that has been violated would not be served by suppression of the evidence
 4 obtained.” *Id.* (citations and quotation marks omitted); *see also U.S. v. Garcia*, 974 F.3d
 5 1071, 1076 (9th Cir. 2020) (explaining that attenuation applies when “the connection
 6 between the illegality and the challenged evidence has become so attenuated as to
 7 dissipate the taint caused by the illegality”) (citations and quotation marks omitted).

8 Courts consider three factors when determining whether to apply the attenuation
 9 doctrine: 1) the temporal proximity between the conduct and the discovery of the
 10 evidence, 2) the presence of intervening circumstances, and 3) the purpose and flagrancy
 11 of the official misconduct. *See Baker*, 58 F.4th at 1119-20 (citing *Brown v. Illinois*, 422
 12 U.S. 590, 603-04 (1975)).

13 Here, Trooper Koester discovered Pineda’s active parole warrant during his
 14 detention—around twelve minutes into the stop. (ECF No. 41-3 at 9:55:48, 10:07:57.)
 15 While the troopers were waiting for animal control to arrive, Trooper Koester asked for
 16 Pineda’s identification, which Pineda immediately provided.¹⁸ (*Id.* at 10:05:49-10:06:26.)

17
 18 ¹⁸Although this issue was not explicitly raised by the parties, the Court finds that
 19 Trooper Koester was permitted to obtain Pineda’s identity because it was part of the
 20 mission of the traffic stop. Trooper Koester stopped the vehicle based on his reasonable
 21 suspicion that the vehicle was stolen, had fled from RPD during an earlier stop, and had
 22 fictitious plates. (ECF Nos. 39-3 at 2; 54.) Accordingly, the “mission” of the stop was not
 23 limited to just the driver but also extended to the passenger because Trooper Koester
 24 had to determine who the vehicle belonged to, who the vehicle’s registered owner was,
 25 and whether it can be released to Pineda if the driver is arrested. (ECF No. 54.) To make
 26 those determinations, Trooper Koester was permitted to inquire into Pineda’s identity,
 even though he was a passenger. *See U.S. v. Jay*, Case No. 4:20-cr-00195-BLW, 2021
 WL 2635843, at *7 (D. Idaho June 24, 2021) (finding that because “the officer stopped
 the vehicle based on reasonable suspicion that the driver had engaged in an arrestable
 offense[.]” “the mission of the stop extended to determining whether the vehicle could be
 turned over to the passenger . . . in the event that the officer arrested the driver” and the
 officer was allowed to inquire into the identity of the passenger) (citation omitted).

27 The present case is distinct from *U.S. v. Landeros*, where the Ninth Circuit held
 28 that a passenger’s identification is usually not within the mission of a traffic stop. *See* 913
 F.3d 862, 868 (9th Cir. 2019). Unlike in *Landeros*, Trooper Koester did not intentionally

Pineda also volunteered that he was on parole and gave Trooper Koester the name of his parole officer in Nevada. (*Id.*) Trooper Koester then asked dispatch to check if there were any warrants for Pineda and dispatch informed him that Pineda had a DONS Priority 5 parole warrant. (ECF Nos. 31-1 at 11; 41-3 at 10:07:03-10:07:57.) Pineda was arrested for the warrant and during his interrogation¹⁹ for the parole warrant, Pineda admitted that the gun inside the car was his. (ECF No. 41-3 at 10:43:23- 10:44:17.) When weighing the three *Brown* factors, the Court finds that discovery of the active probation warrant was an intervening event that attenuated the unlawful arrest.

As to the first *Brown* factor, the parties agree that the temporal proximity between the alleged illegal arrest and Pineda's incriminating statements weighs against attenuation. (ECF Nos. 39 at 21; 41-3 at 10:43:52; 45 at 8.) See *Brown*, 422 U.S. at 603-04. As to the second *Brown* factor, the Court finds that Trooper Koester's discovery of the active warrant was an intervening event that broke the causal chain between the unlawful arrest and Pineda's incriminating statements. (ECF No. 41-3 at 10:07:57.) See *id.* In *Utah v. Strieff*, the U.S. Supreme Court found that "the valid arrest warrant—one that predated and was 'entirely unconnected' to the illegal stop—constituted an intervening circumstance that favored a finding of attenuation." *Baker*, 58 F.4th at 1120 (citing *Utah*

prolong the stop because Pineda refused to provide his identification—Pineda immediately complied with Trooper Koester's request, even volunteering that he was on parole; the stop was only prolonged due to the troopers' inability to access the VIN because of the Pit bull inside the car. (ECF No. 41-3 at 10:05:49-10:06:26.) See *id.* at 870. Moreover, the officer in *Landeros* only pulled over the car for speeding, but Trooper Koester had reasonable suspicion that the driver had committed an arrestable offense and was trying to determine who the vehicle belonged to, whether the vehicle was stolen, and whether the car could be released to Pineda. (ECF No. 54.) See *Landeros*, 913 F.3d at 864; *Jay*, 2021 WL 2635843, at *5. Thus, Trooper Koester's inquiry into Pineda's identity was permissible.

¹⁹Before the interrogation, Trooper Koester gave Pineda his *Miranda* warnings and Pineda indicated that he understood his rights. (ECF Nos. 41-3 at 10:43:23-10:44:17; 54.) The Court notes that Pineda is not challenging the sufficiency of the *Miranda* warnings or alleging any constitutional violations and misconduct during the interrogation itself. (ECF Nos. 31; 45; 54.)

1 v. *Strieff*, 579 U.S. 232, 240 (2016)). “The Court reasoned that the arrest warrant obligated
2 the officer to arrest the defendant and the arrest itself established the officer's authority
3 to search the defendant's person.” *Id.* (citing *Strieff*, 579 U.S. at 240-41). Similarly, here,
4 Pineda’s DONS Priority 5 parole warrant predated the stop and arrest—Pineda’s parole
5 officer issued the priority hold on December 20, 2021—approximately a month and a half
6 before the stop. See *Strieff*, 579 at 240. (ECF No. 54.) The warrant was also entirely
7 unconnected to the stop—it pertained to Pineda’s parole violations²⁰ for an unrelated
8 second-degree murder case. (ECF Nos. 31-1 at 11; 54.) See *id.* Thus, the arrest for the
9 parole warrant established Trooper Koester’s authority to interrogate Pineda. See *Baker*,
10 58 F.4th at 1120.

11 Moreover, the unique nature of a warrant supports a finding of attenuation. See
12 *Garcia*, 974 F.3d at 1076. In *Strieff*, the Supreme Court reasoned that the warrant was
13 unconnected to the illegal stop because an officer has “a sworn duty to carry out [a
14 warrant’s] provisions” and an obligation to make the arrest. See 579 at 240 (citation
15 omitted). Trooper Koester’s arrest of Pineda was essentially “a ministerial act that was
16 independently compelled by the pre-existing warrant” and not influenced by any prior
17 illegal conduct, thus dissipating the taint caused by the illegality. See *id.* (emphasis
18 added); *Garcia*, 974 F.3d at 1076. Trooper Koester and Pineda’s parole officer, C.
19 Congdon, both testified that a DONS Priority 5 warrant *requires* an officer to immediately
20 arrest the parole absconder. (ECF No. 54.) Thus, the second *Brown* factor favors
21 attenuation.

22 Finally, the third *Brown* factor also favors attenuation. See *Brown*, 422 U.S. at 603-
23 04. To the extent Pineda’s arrest was unlawful, it was the result of Trooper Koester’s
24 good-faith error rather than his purposeful and flagrant misconduct. See *id.*; see also
25 *Strieff*, 579 U.S. at 242. As explained above, Trooper Koester reasonably relied on a
26 partially inaccurate dispatch report, which conveyed that the vehicle was stolen, had fled

27
28 ²⁰Pineda’s probation officer, C. Congdon, testified that she issued the parole
warrant because Pineda failed to check in with probation for many months. (ECF No. 54.)

1 from RPD officers during an earlier stop, and had fictitious plates. (ECF Nos. 39-3 at 2;
2 54.) Thus, his actions were consistent with and in compliance with NHP protocol for a
3 high-risk felony stop. (ECF No. 54.) See *Strieff*, 579 U.S. at 242 (finding that the third
4 *Brown* factor favored the government because “all the evidence suggests that the stop
5 was an isolated instance of negligence”). There is no evidence that Trooper Koester’s
6 unlawful conduct was part of any systemic or recurrent law enforcement misconduct. See
7 *id.* at 241-42.

8 Because the second and third *Brown* factors strongly favor attenuation, the Court
9 finds that Pineda’s incriminating statements are admissible. The parole warrant was an
10 intervening event, independent of the illegal arrest, that attenuated any unlawful law
11 enforcement conduct. Pineda’s Motion is therefore denied.

12 **IV. CONCLUSION**

13 The Court notes that the parties made several arguments and cited to several
14 cases not discussed above. The Court has reviewed these arguments and cases and
15 determines that they do not warrant discussion as they do not affect the outcome of
16 Pineda’s Motion.

17 It is therefore ordered that Pineda’s motion to suppress (ECF No. 31) is denied.

18 DATED THIS 4th Day of May 2023.

19
20 

21 MIRANDA M. DU
22 CHIEF UNITED STATES DISTRICT JUDGE
23
24
25
26
27
28